

AMENDED IN SENATE MAY 10, 2016

AMENDED IN ASSEMBLY JANUARY 26, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1244

Introduced by Assembly Member Gray

February 27, 2015

An act to ~~amend Section 1229 of the Water Code, relating to water.~~
add Section 5307.15 to the Labor Code, and to amend Section 14123
of the Welfare and Institutions Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1244, as amended, Gray. ~~Water rights: small irrigation use.~~
Workers' compensation: providers: suspension and revocation.

Under existing law, the Director of Health Care Services is authorized, for purposes of administering the Medi-Cal program, to suspend a provider of service from further participation under the program for specified reasons, including conviction of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service. Existing law requires the director, upon receipt of written notification from the Secretary of the United States Department of Health and Human Services that a physician or other individual practitioner has been suspended from participation in the Medicare or Medicaid programs, to promptly suspend the practitioner from participation in the Medi-Cal program.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers'

Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law requires an employer to provide all medical services reasonably required to cure or relieve the injured worker from the effects of the injury.

Existing law authorizes an insurer, employer, or entity that provides physician network services to establish or modify a medical provider network for the provision of medical treatment to injured employees and requires the administrative director to contract with individual physicians or an independent medical review organization to perform medical provider network independent medical reviews. Existing law also requires the administrative director to appoint qualified medical evaluators in each of the respective specialties as required for the evaluation of medical-legal issues.

This bill would require the Director of Health Care Services to notify the administrative director of a suspension imposed pursuant to the above provisions and would require the administrative director, upon that notification, to promptly suspend the physician or practitioner from participating in the workers' compensation system in any capacity, including, but not limited to, participation as a qualified medical examiner, a treating provider in a medical provider network, or an independent medical reviewer. The bill would require the administrative director to adopt regulations establishing criteria for revocation of a suspended physician's or practitioner's participation in the workers' compensation system, subject to specified notice and hearing requirements.

This bill would require the administrative director to notify the appropriate state licensing entity of a physician's or practitioner's suspension or revocation and to update relevant provider databases of qualified medical evaluators and medical provider networks. The bill would prohibit claims for payment for services or supplies provided by a provider whose participation in the workers' compensation system has been suspended or revoked, except under specified circumstances.

~~Existing law authorizes any person to obtain a right to appropriate water for a small irrigation use upon registering the use with the State Water Resources Control Board and thereafter applying the water to reasonable and beneficial use with due diligence. Existing law provides that the board is not required to adopt general conditions applicable to appropriations for small irrigation use until the board determines that funds are available for that purpose. Existing law provides that the~~

authority to register for small irrigation use is effective only to the extent that the board establishes the general conditions for the applicable category of small irrigation use.

This bill would require the board, when adopting general conditions, to consult with the Department of Food and Agriculture and the University of California Cooperative Extension, regarding relevant agricultural information, and with the Department of Fish and Wildlife, regarding potential impacts on fish and wildlife species, for small irrigation use.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5307.15 is added to the Labor Code, to
2 read:
3 5307.15. (a) (1) Whenever the administrative director receives
4 written notification from the Director of Health Care Services
5 pursuant to Section 14123 of the Welfare and Institutions Code
6 that a physician or other individual practitioner has been
7 suspended from participation in the Medi-Cal program, the
8 administrative director shall promptly suspend the physician or
9 practitioner from participating in the workers' compensation
10 system in any capacity, including, but not limited to, participation
11 as a qualified medical examiner, a treating provider in a medical
12 provider network, or a medical provider network independent
13 medical reviewer.
14 (2) The administrative director also shall exercise due diligence
15 to identify physicians and practitioners who have been suspended
16 as described in subdivision (a) by accessing the quarterly updates
17 to the list of suspended and ineligible providers maintained by the
18 State Department of Health Care Services for the Medi-Cal
19 p r o g r a m a t
20 <https://files.medi-cal.ca.gov/pubsdoco/SandILanding.asp>.
21 (b) (1) The administrative director shall adopt regulations
22 establishing criteria for revocation of a suspended physician's or
23 practitioner's participation in the workers' compensation system,
24 subject to the notice and hearing requirements in paragraph (2).
25 (2) The administrative director shall serve the physician or
26 practitioner with written notice of the specific basis for revocation

1 of his or her participation in the workers' compensation system
2 and shall set a hearing within 30 days of the date of service on the
3 physician or practitioner. The hearing proceedings shall be
4 conducted pursuant to Chapter 4 (commencing with Section 11370)
5 of Part 1 of Division 3 of Title 2 of the Government Code.

6 (c) The administrative director shall promptly notify the
7 physician's or practitioner's state licensing, certifying, or
8 registering authority of a suspension or revocation imposed
9 pursuant to this section and shall update the department's qualified
10 medical evaluator and medical provider network databases, as
11 appropriate.

12 (d) A provider of services, whether an individual, clinic, group,
13 corporation, or other association, may not submit a claim for
14 payment to a payor for any services or supplies provided by a
15 physician or practitioner whose participation in the workers'
16 compensation has been suspended or revoked pursuant to this
17 section. This subdivision does not apply with respect to services
18 or supplies provided prior to the date of the suspension or
19 revocation.

20 SEC. 2. Section 14123 of the Welfare and Institutions Code is
21 amended to read:

22 14123. Participation in the Medi-Cal program by a provider
23 of service is subject to suspension in order to protect the health of
24 the recipients and the funds appropriated to carry out this chapter.

25 (a) (1) The director may suspend a provider of service from
26 further participation under the Medi-Cal program for violation of
27 any provision of this chapter or Chapter 8 (commencing with
28 Section 14200) or any rule or regulation promulgated by the
29 director pursuant to those chapters. ~~Any such~~ The suspension may
30 be for an indefinite or specified period of time and with or without
31 ~~conditions~~ conditions, or may be imposed with the operation of
32 the suspension stayed or probation granted. The director shall
33 suspend a provider of service for conviction of any felony or any
34 misdemeanor involving fraud, abuse of the Medi-Cal program or
35 any patient, or otherwise substantially related to the qualifications,
36 functions, or duties of a provider of service.

37 ~~If~~

38 (2) If the provider of service is a clinic, group, corporation, or
39 other association, conviction of any officer, director, or shareholder
40 with a 10 percent or greater interest in that organization, of ~~such~~

1 a crime *described in paragraph (1)* shall result in the suspension
 2 of that organization and the individual convicted if the director
 3 believes that suspension would be in the best interest of the
 4 Medi-Cal program. If the provider of services is a political
 5 subdivision of the state or other government agency, the conviction
 6 of the person in charge of the facility of ~~such~~ a crime *described in*
 7 *paragraph (1)* may result in the suspension of that facility. The
 8 record of conviction or a certified copy thereof, certified by the
 9 clerk of the court or by the judge in whose court the conviction is
 10 had, shall be conclusive evidence of the fact that the conviction
 11 occurred. A plea or verdict of guilty, or a conviction following a
 12 plea of nolo contendere is deemed to be a conviction within the
 13 meaning of this section.

14 ~~After~~

15 (3) *After* conviction, but before the time for appeal has elapsed
 16 or the judgment of conviction has been affirmed on appeal, the
 17 director, if he or she believes that suspension would be in the best
 18 interests of the Medi-Cal program, may order the suspension of a
 19 provider of service. When the time for appeal has elapsed, or the
 20 judgment of conviction has been affirmed on appeal or when an
 21 order granting probation is made suspending the imposition of
 22 sentence irrespective of any subsequent order under Section 1203.4
 23 of the Penal Code allowing a person to withdraw his or her plea
 24 of guilty and to enter a plea of not guilty, or setting aside the verdict
 25 of guilty, or dismissing the accusation, information, or indictment,
 26 the director shall order the suspension of a provider of service.
 27 The suspension shall not take effect earlier than the date of the
 28 director's order. Suspension following a conviction is not subject
 29 to the proceedings required in subdivision (c). However, the
 30 director may grant an informal hearing at the request of the provider
 31 of service to determine in the director's sole discretion if the
 32 circumstances surrounding the conviction justify rescinding or
 33 otherwise modifying the suspension provided for in this
 34 subdivision.

35 ~~If~~

36 (4) *If* the provider of service appeals the conviction and the
 37 conviction is reversed, the provider may apply for reinstatement
 38 to the Medi-Cal program after the conviction is reversed.
 39 Notwithstanding Section 14126.6, the application for reinstatement
 40 shall not be subject to the one-year waiting period for the filing of

1 a reinstatement petition pursuant to Section 11522 of the
2 Government Code.

3 (b) Whenever the director receives written notification from the
4 Secretary of the United States Department of Health and Human
5 ~~Services~~, *Services* that a physician or other individual practitioner
6 has been suspended from participation in the Medicare or medicaid
7 programs, the director shall promptly suspend the practitioner from
8 participation in the Medi-Cal ~~program~~. *program and notify the*
9 *Administrative Director of the Division of Workers' Compensation*
10 *of the suspension, in accordance with paragraph (2) of subdivision*
11 *(e)*. This automatic suspension is not subject to the proceedings
12 required in subdivision (c). No payment from state or federal funds
13 may be made for any item or service rendered by the practitioner
14 during the period of suspension.

15 (c) The proceedings for suspension shall be conducted pursuant
16 to Section 100171 of the Health and Safety Code. The director
17 may temporarily suspend any provider of service prior to any
18 hearing when in his or her opinion that action is necessary to
19 protect the public welfare or the interests of the Medi-Cal program.
20 The director shall notify the provider of service of the temporary
21 suspension and the effective date thereof and at the same time
22 serve the provider with an accusation. The accusation and all
23 proceedings thereafter shall be in accordance with Section 100171
24 of the Health and Safety Code. Upon receipt of a notice of defense
25 by the provider, the director shall set the matter for hearing within
26 30 days after receipt of the notice. The temporary suspension shall
27 remain in effect until such time as the hearing is completed and
28 the director has made a final determination on the merits. The
29 temporary suspension shall, however, be deemed vacated if the
30 director fails to make a final determination on the merits within
31 60 days after the original hearing has been completed. This
32 subdivision does not apply where the suspension of a provider is
33 based upon the conviction of any crime involving fraud, abuse of
34 the Medi-Cal program, or suspension from the federal Medicare
35 program. In those instances, suspension shall be automatic.

36 (d) (1) The suspension by the director of any provider of
37 service shall preclude the provider from submitting claims for
38 payment, either personally or through claims submitted by any
39 clinic, group, corporation, or other association to the Medi-Cal
40 program for any services or supplies the provider has provided

1 under the program, except for services or supplies provided prior
2 to the suspension. No clinic, group, corporation, or other
3 association which is a provider of service shall submit claims for
4 payment to the Medi-Cal program for any services or supplies
5 provided by a person within the organization who has been
6 suspended or revoked by the director, except for services or
7 supplies provided prior to the suspension.

8 ~~Where~~

9 (2) ~~If the provisions of this chapter or chapter, Chapter 8~~
10 ~~(commencing with Section 14200) 14200), or the regulations~~
11 ~~promulgated by the director are violated by a provider of service~~
12 ~~which that is a clinic, group, corporation, or other association, the~~
13 ~~director may suspend the organization and any individual person~~
14 ~~within the organization who is responsible for the violation.~~

15 (e) (1) Notice of the suspension shall be sent by the director
16 to the provider's state licensing, certifying, or registering authority,
17 along with the evidence upon which the suspension was based.

18 (2) *At the same time notice is provided pursuant to paragraph*
19 *(1), the director shall provide written notification of the suspension*
20 *to the Administrative Director of the Division of Workers'*
21 *Compensation, for purposes of Section 5307.15 of the Labor Code.*

22 (f) In addition to the bases for suspension contained in
23 subdivisions (a) and (b), the director may suspend a provider of
24 service from further participation under the Medi-Cal dental
25 program for the provision of services that are below or less than
26 the standard of acceptable quality, as established by the California
27 Dental Association Guidelines for the Assessment of Clinical
28 Quality and Professional Performance, Copyright 1995, Third
29 Edition, as periodically amended. ~~Any such~~ *The* suspension shall
30 be subject to the requirements contained in subdivisions (a) to (e),
31 inclusive.

32 ~~SECTION 1. Section 1229 of the Water Code is amended to~~
33 ~~read:~~

34 ~~1229. (a) The board is not required to adopt general conditions~~
35 ~~for small irrigation use pursuant to subdivision (a) of Section~~
36 ~~1228.6 until the board determines that funds are available for that~~
37 ~~purpose.~~

38 ~~(b) A registration for small irrigation use pursuant to this article~~
39 ~~is not authorized until the board establishes general conditions for~~

1 ~~small irrigation use pursuant to subdivision (a) of Section 1228.6~~
2 ~~to protect instream beneficial uses.~~

3 ~~(e) The board may establish general conditions for some~~
4 ~~methods of diversion or categories of small irrigation use before~~
5 ~~establishing general conditions for other methods or categories,~~
6 ~~in which case a registration for small irrigation use is authorized~~
7 ~~only for those methods or categories for which the board has~~
8 ~~established the general conditions for the protection of instream~~
9 ~~beneficial uses.~~

10 ~~(d) The board, when adopting general conditions, shall consult~~
11 ~~with the Department of Food and Agriculture and the University~~
12 ~~of California Cooperative Extension, regarding relevant agricultural~~
13 ~~information, and with the Department of Fish and Wildlife,~~
14 ~~regarding potential impacts on fish and wildlife species, for small~~
15 ~~irrigation use.~~